

West's Tennessee Code Annotated [Currentness](#)

Title 49. Education

→ [Chapter 13](#). Tennessee Public Charter Schools Act of 2002 ([Refs & Annos](#))

§ 49-13-101. Short title

This chapter shall be known and may be cited as the “Tennessee Public Charter Schools Act of 2002.”

§ 49-13-102. Purpose

(a) The purpose of this chapter is to:

- (1) Improve learning for all students and close the achievement gap between high and low students;
- (2) Provide options for parents to meet educational needs of students in high priority schools;
- (3) Encourage the use of different and innovative teaching methods, and provide greater decision making authority to schools and teachers in exchange for greater responsibility for student performance;
- (4) Measure performance of pupils and faculty, and ensure that children have the opportunity to reach proficiency on state academic assessments;
- (5) Create new professional opportunities for teachers; and
- (6) Afford parents substantial meaningful opportunities to participate in the education of their children.

(b) It is the intention of this chapter to provide an alternative means within the public school system for ensuring accomplishment of the necessary outcomes of education by allowing the establishment and maintenance of public charter schools that operate within a school district structure but are allowed maximum flexibility to achieve their goals.

(c) It is the intent of this chapter to provide both the state department of education and local school systems with options relative to the governance and improvement of high priority schools failing to meet adequate yearly progress as outlined in both [§ 49-1-602](#) and the federal Elementary and Secondary Education Act, compiled in [20 U.S.C. § 6301 et seq.](#)

(d) It is the intent of this chapter to provide the state department of education and local school systems with options relative to the delivery of instruction for those students with special needs as specified in the federal IDEA.

(e) It is the intent of this chapter to provide local school systems the option to work in concert with the state's public higher education institutions to establish charter school “laboratories of teaching and learning” as a means of fostering educational innovations for implementation statewide.

§ 49-13-103. Applicability

This chapter applies only to schools formed and operated in accordance with this chapter.

§ 49-13-104. Definitions

As used in this chapter:

- (1) "Charter agreement" means a performance-based agreement between the sponsor of a public charter school and the chartering authority, the terms of which are approved by the chartering authority for an initial period of ten (10) years;
- (2) "Chartering authority" means the local board of education or the achievement school district as defined in [§ 49-1-614](#) that approves, renews or decides not to revoke a public charter school application or agreement;
- (3) "Governing body" means the organized group of persons who will operate a public charter school by deciding matters, including, but not limited to, budgeting, curriculum and other operating procedures for the public charter school and by overseeing management and administration of a public charter school. The membership of a charter school's governing body shall include at least one (1) parent representative whose child is currently enrolled in the charter school. The parent representative shall be appointed by the governing body within six (6) months of the school's opening date;
- (4) "Licensed teacher" means a person over the age of eighteen (18) who meets the qualifications of chapter 5, part 1 of this title and has received a license to teach in the public school system in compliance with the rules and regulations of the state board of education;
- (5) "Local education agency" or "LEA" has the same definition as used in [§ 49-3-302](#);
- (6) "Public charter school" means a public school in this state that is established and operating under the terms of a charter agreement and in accordance with this chapter;
- (7) "Sponsor" means any individual, group, or other organization filing an application in support of the establishment of a public charter school; provided, however, that a sponsor cannot be a for-profit entity, a private elementary or secondary school, a post-secondary institution not accredited by the Southern Association of Colleges and Schools, a religious or church school or promote the agenda of any religious denomination or religiously affiliated entity; and
- (8) "Underutilized or vacant property" means an entire property or portion thereof, with or without improvements, which is not used or is used irregularly or intermittently by the LEA for instructional or program purposes. "Underutilized or vacant property" shall not include real property on which no building or permanent structure has been erected.

§ 49-13-105. Statutes, rules and regulations

- (a) Public charter schools shall be part of the state program of public education.
- (b) Except where waivers are otherwise prohibited in this chapter, the sponsor of a proposed public charter school may apply to either the LEA or to the commissioner of education for a waiver of any state board rule or statute that inhibits or hinders the proposed charter school's ability to meet its goals or comply with its mission statement.

Neither the LEA nor the commissioner shall waive regulatory or statutory requirements related to:

- (1) Federal and state civil rights;
- (2) Federal, state, and local health and safety;
- (3) Federal and state public records;
- (4) Immunizations;
- (5) Possession of weapons on school grounds;
- (6) Background checks and fingerprinting of personnel;
- (7) Federal and state special education services;
- (8) Student due process;
- (9) Parental rights;
- (10) Federal and state student assessment and accountability;
- (11) Open meetings; and
- (12) At least the same equivalent time of instruction as required in regular public schools.

§ 49-13-106. Creation or conversion of charter schools

(a)(1) Public charter schools authorized by an LEA may be formed to provide quality educational options for all students residing within the jurisdiction of the chartering authority; provided, however, an LEA may authorize charters to enroll students residing outside the LEA in which the public charter school is located pursuant to the LEA out-of-district enrollment policy and in compliance with [§ 49-6-3003](#) and [§ 49-6-403\(f\)](#).

(2) The achievement school district may authorize charter schools within the jurisdiction of the LEA for the purpose of providing opportunities for students within the LEA who are zoned to attend or enrolled in a school that is eligible to be placed in the achievement school district. For the purposes of this subdivision (a)(2), students shall not be considered “zoned” for a school that is open to all students within the LEA unless they are assigned to the school based on the LEA's geographic zoning policies.

(b) A public charter school may be formed by creating a new school or converting an eligible public school to charter status pursuant to the provisions of this chapter.

(1) Newly created public charter schools:

(A) The sponsor of a public charter school must file a public charter school application with the chartering authority on or before October 1 of the year preceding the year in which the proposed public charter school plans to begin operation;

(B) Upon approval of a charter application, the sponsor shall authorize a governing body to operate the public charter school. A public charter school shall be operated by a not-for-profit organization with exemption from federal taxation under [§ 501\(c\)\(3\) of the Internal Revenue Code](#), codified in [26 U.S.C. § 501\(c\)\(3\)](#). No charter shall be granted to a for-profit corporation; and

(C) In reviewing applications for newly created charter schools, the chartering authority, if an LEA, shall give preference to, and, if the achievement school district, shall exclusively accept, applications that demonstrate the capability to meet the needs of the following groups of students:

(i) Students who are assigned to, or were previously enrolled in, a school failing to make adequate yearly progress, as defined by the state's accountability system;

(ii) Students who, in the previous school year, failed to test proficient in the subjects of reading/language arts or

mathematics in grades three (3) through eight (8) on the Tennessee comprehensive assessment program examinations;

(iii) Students who, in the previous school year, failed to test proficient in the subjects of reading/language arts or mathematics on the end of course assessments in grades nine (9) through twelve (12); or

(iv) Students who are eligible for free or reduced price lunch.

(D) If an application with the focus of serving students from a group or groups set forth in subdivision (b)(1)(C) is approved, then the school shall give preference in enrollment to students from such group or groups. Such school shall include in the annual report under [§ 49-13-120](#) the number of students from such group or groups who are attending the school.

(2) Conversion of eligible schools to charter status:

(A) An eligible public school may convert to a public charter school pursuant to this chapter if the parents of sixty percent (60%) of the children enrolled at the school or sixty percent (60%) of the teachers assigned to the school agree and demonstrate support by signing a petition seeking conversion and the LEA agrees to the conversion. The percentage of parents signing a petition shall be calculated on the basis of one (1) vote for each child enrolled in the school. Parents whose children are enrolled at the school shall have the option to enroll their child in another public school without penalty;

(B) An LEA may convert an eligible public school to a public charter school. Parents whose children are enrolled at the school shall have the option to enroll their child in another public school without penalty. An LEA's decision on whether to convert an eligible public school may not be appealed to the state board of education;

(C)(i) The conversion must occur at the beginning of an academic school year and shall be subject to compliance with this chapter; and

(ii) At the time of conversion to a charter school, any teacher or administrator in the charter school shall be allowed to transfer into vacant positions for which they are certified in other schools in the school system prior to the hiring of new personnel for those positions. Personnel who transfer into vacant positions in other schools in the school system shall suffer no impairment, interruption or diminution of the rights and privileges of a then existing teacher or administrator, and the rights and privileges shall continue without impairment, interruption or diminution with the local board of education. "Rights and privileges," as used in this subdivision (b)(2)(C)(ii), include, but are not limited to, salary, pension or retirement benefits, sick leave accumulation, tenure, seniority and contract rights with the local board of education. The director of schools shall have the option to specifically assign these teachers or administrators to those vacant positions;

(D) Deleted by [2011 Pub.Acts, c. 466, § 6, eff. June 10, 2011](#).

(E) Deleted by [2011 Pub.Acts, c. 466, § 6, eff. June 10, 2011](#).

(c)(1) No charter agreement shall be granted under this chapter that authorizes the conversion of any private, parochial, cyber-based or home-based school to charter status.

(2) No cyber-based public charter school may be authorized.

(d) Nothing in this chapter shall be construed to prohibit any individual or organization from providing funding or

other assistance to the establishment or operation of a public charter school, but the funding or assistance shall not entitle the individual or organization to any ownership interest in the school other than a security interest for repayment of a loan or mortgage. The funding or assistance shall be disclosed as provided in [§ 49-13-107\(20\)](#).

§ 49-13-107. Application process

On or before October 1 of the year preceding the year in which the proposed public charter school plans to begin operation, the sponsor seeking to establish a public charter school shall prepare and file with the chartering authority an application providing the following information and documents:

- (1) A statement defining the mission and goals of the proposed public charter school;
- (2) The proposed instructional goals and methods for the school, which, at a minimum, shall include teaching and classroom instruction methods that will be used to provide students with the knowledge, proficiency and skills needed to reach the goals of the school;
- (3) A plan for evaluating student academic achievement at the proposed public charter school and the procedures for remedial action that will be used by the school when the academic achievement of a student falls below acceptable standards;
- (4) An operating budget based on anticipated enrollment;
- (5) The method for conducting annual audits of the financial, administrative and program operations of the school;
- (6) A timetable for commencing operations as a public charter school that shall provide for a minimum number of academic instruction days, which shall not be fewer than those required by statute;
- (7) The proposed rules and policies for governance and operation of the school;
- (8) The names and addresses of the members of the governing body;
- (9) A description of the anticipated student enrollment and the nondiscriminatory admission policies;
- (10) The code of behavior and discipline of the proposed public charter school;
- (11) The plan for compliance with the applicable health and safety laws and regulations of the federal government and the laws of the state;
- (12) The qualifications required of employees of the proposed public charter school;
- (13) The identification of the individuals and entities sponsoring the proposed public charter school, including their names and addresses;
- (14) The procedures governing the deposit and investment of idle funds, purchasing procedures and comprehensive travel regulations;
- (15) The plan for the management and administration of the school;

- (16) A copy of the proposed bylaws of the governing body of the charter school;
- (17) A statement of assurance of liability by the governing body of the charter school;
- (18) Types and amounts of insurance coverage to be held either by the charter school or approved by the chartering authority, including provisions for assuring that the insurance provider will notify the department of education within ten (10) days of the cancellation of any insurance it carries on the charter school;
- (19) The plan for transportation for the pupils attending the charter school; and
- (20) Information regarding financing commitments from equity investors or debt sources for cash or similar liquid assets sufficient to demonstrate that the charter school will have liquid assets sufficiently available to operate the school on an ongoing and sound financial basis. In lieu of cash or similar liquid assets, an applicant may provide a financial bond issued by a company authorized to issue surety bonds in this state.

§ 49-13-108. Approval, denial of application

This section shall apply only to applications for new charter schools under [§ 49-13-106\(b\)\(1\)](#) when the LEA is the chartering authority.

(1) The local board of education shall have the authority to approve applications to establish public charter schools and renew public charter school agreements. The local board of education shall rule by resolution, at a regular or special called meeting, on the approval or denial of a charter application within sixty (60) days of receipt of the completed application. Should the local board of education fail to either approve or deny a charter application within the sixty (60) day time limit prescribed in this subdivision (1), the application shall be deemed approved.

(2) The grounds upon which the local board of education based a decision to deny a public charter school application must be stated in writing, specifying objective reasons for the denial. Upon receipt of the grounds for denial, the sponsor shall have fifteen (15) days within which to submit an amended application to correct the deficiencies. The local board of education shall have fifteen (15) days either to deny or to approve the amended application.

(3) A denial by the local board of education of an application to establish a public charter school may be appealed by the sponsor, within ten (10) days of the final decision to deny, to the state board of education. The appeal and review process shall be in accordance with this subdivision (3). Within sixty (60) days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board, at a public hearing attended by the board or its designated representative and held in the school district in which the proposed charter school has applied for a charter, shall review the decision of the local board of education and make its findings. If the state board finds that the local board's decision was contrary to the best interests of the pupils, school district or community, the state board shall remand the decision to the local board of education with written instructions for approval of the charter. The grounds upon which the state board of education based a decision to remand the application shall be stated in writing, specifying objective reasons for the decision. The decision of the state board shall be final and not subject to appeal. The LEA, however, shall be the chartering authority.

(4)(A) Prior to approving or denying a charter school's application, the local board of education may consider whether the establishment of the charter school will have a substantial negative fiscal impact on the LEA such that authorization of the charter school would be contrary to the best interests of the pupils, school district or community. If the local board of education denies an initial application in whole or in part for this reason, the local board of education shall provide the following supporting documentation to the sponsor:

- (i) Current student enrollment figures in the LEA and an estimate of the number of students currently enrolled

who will transfer to the charter school seeking authorization;

(ii) An estimate, based on prior years' data, of the number of students who will no longer be enrolled in the LEA during the school year in which the charter school seeks to begin operation for reasons other than a transfer to the charter school;

(iii) A projection of the LEA's student enrollment for the school year in which the charter school seeks to begin operation, excluding the estimated number of students who will transfer to the charter school seeking authorization. Such projection shall include estimates, using prior years' data, of increased revenue to the LEA from first-time enrollees or transferees into the district; and

(iv) Specific facts or financial information and a written statement demonstrating how placement or transfer of students to a charter school within the LEA will impose a budgetary or financial burden on the LEA beyond that associated with normal enrollment fluctuations, including an objective analysis of the LEA's ability to adjust expenses on a systemwide basis due to the estimated numbers and anticipated placement of students who will transfer to the charter school seeking authorization.

(B) If the local board of education denies an amended charter school application because of a substantial negative fiscal impact, the local board of education shall provide the supporting documentation identified in subdivision (4)(A) to the state treasurer within five (5) days of the local board's denial of the amended application. The sponsor may submit a response and supporting documentation to the treasurer within five (5) days of the local board's denial of the amended application. The treasurer shall review the supporting documentation and written statement submitted by the local board of education and the response and supporting documentation of the sponsor to determine the reasonableness of the denial based on substantial negative fiscal impact. The treasurer may consult with the department of education in the review and may request additional information from the local board of education, the sponsor and the department to assist in the review. As soon as practicable after receipt of all requested documentation and expert reports or both, but in no case greater than thirty (30) days, the treasurer shall make a determination as to the reasonableness of the denial based on substantial negative fiscal impact. If the treasurer determines it is necessary or appropriate, the treasurer is authorized to engage experts to assist the treasurer in this process.

(C) If the treasurer determines that the information provided by the local board of education reasonably demonstrates that establishment of the charter school shall have a substantial negative fiscal impact on the LEA such that authorization of the charter school would be contrary to the best interests of the pupils, school district or community, the sponsor may not appeal the denial to the state board of education.

(D) If the treasurer determines that the information provided by the local board of education does not reasonably demonstrate that establishment of the charter school shall have a substantial negative fiscal impact on the LEA such that authorization of the charter school would be contrary to the best interests of the pupils, school district or community, the sponsor may appeal the denial by the local board of education to the state board of education, pursuant to subdivision (3) of this section. However, the sponsor shall request this appeal within five (5) days of the final decision by the treasurer.

(E) The comptroller of the treasury may develop standards relative to this subdivision (4) of this section.

(F) No part of this subdivision (4) shall be subject to the Uniform Administrative Procedures Act compiled in title 4, chapter 5.

§ 49-13-109. Repealed by 2011 Pub.Acts, c. 466, § 12, eff. June 10, 2011

§ 49-13-110. Charter agreement

(a) The approval by the chartering authority of a public charter school application shall be in the form of a written agreement signed by the sponsor and the chartering authority, which shall be binding upon the governing body of the public charter school. The charter agreement for a public charter school shall be in writing and contain all components of the application.

(b) The governing body of the charter school may amend the original charter by making petition to the chartering authority. Timelines for approval and the appeal process in [§ 49-13-108](#) shall apply to all petitions to amend the original charter. The governing body of a charter school may also request the chartering authority to allow a voluntary termination of the charter school prior to the expiration of the charter.

(c)(1) Upon dissolution of a charter school for any reason or if a charter is not renewed, any unencumbered public funds from the charter school shall revert to the LEA. In the event that a charter school is dissolved or otherwise terminated, all LEA property and improvements, furnishings and equipment purchased with public funds shall automatically revert to full ownership by the LEA, subject to complete satisfaction of any lawful liens or encumbrances.

(2) If a charter school is dissolved for any reason or a charter is not renewed, the charter school is responsible for all debts of the charter school. The LEA may not assume the debt from any contract for services made between the governing body of the school and a third party, except for a debt that is previously detailed and agreed upon in writing by both the LEA and the governing body of the school and that may not reasonably be assumed to have been satisfied by the LEA.

§ 49-13-111. Compliance

(a) A public charter school shall:

(1) Operate as a public, nonsectarian, nonreligious public school, with control of instruction vested in the governing body of the school under the general supervision of the chartering authority and in compliance with the charter agreement and this chapter;

(2) Meet the same performance standards and requirements adopted by the state board of education for public schools;

(3) Receive state, federal, and local funds from the local board of education;

(4) Provide special education services for students as provided in chapter 10 of this title; and

(5) Administer state assessments as provided in chapter 1, part 6 of this title.

(b) A public charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, national origin, religion, ancestry or need for special education services. A public charter school may not violate or be used to subvert any state or federal court orders in place in the local school district.

(c)(1) A public charter school shall comply with all applicable health and safety standards, regulations and laws of the United States and this state.

(2) The governing body of a public charter school shall ensure that the public charter school provides parents and guardians with information about meningococcal disease and the effectiveness of vaccination against meningococcal disease at the beginning of every school year. This information shall include the causes, symptoms, and the means by which meningococcal disease is spread and the places where parents and guardians may obtain additional information and vaccinations for their children. Nothing in this subdivision (c)(2) shall be construed to require a public charter school or its governing body to provide or purchase vaccine against meningococcal disease.

(d) A public charter school shall be accountable to the chartering authority for the purposes of ensuring compliance with the charter agreement and the requirements of this chapter.

(e) All contracts for goods and services in excess of five thousand dollars (\$5,000) shall be bid and must be approved by the governing body of each public charter school.

(f) A public charter school shall be governed and managed by a governing body in a manner agreed to by the sponsor and the chartering authority as provided in the charter agreement.

(g) With regard to conflicts of interest, the governing body of a public charter school shall be subject to the provisions of [§§ 12-4-101](#) and [12-4-102](#).

(h) The meetings of the governing body of a public charter school shall be deemed public business and must be held in compliance with title 8, chapter 44, part 1.

(i) All teachers in a public charter school must have a current valid Tennessee teaching license or meet the minimum requirements for licensure as defined by the state board of education.

(j) A public charter school is subject to state audit procedures and audit requirements.

(k) A public charter school shall not charge tuition; provided, however, that tuition may be charged if the governing body of the charter school approves a transfer from another district to a public charter school in its district pursuant to the provisions of [§ 49-6-3003](#).

(l) A public charter school shall be operated on a July 1 to June 30 fiscal year and the governing body shall adopt and operate under an annual budget for the fiscal year. The budget shall be prepared in the same format as that required by the state department of education for LEAs.

(m) A public charter school shall maintain its accounts and records in accordance with generally accepted accounting principles and in conformance with the uniform chart of accounts and accounting requirements prescribed by the comptroller of the treasury. The charter school shall prepare and publish an annual financial report that encompasses all funds. The annual financial report shall include the audited financial statements of the charter school.

(n) A public charter school shall require any member of the governing body, employee, officer or other authorized person who receives funds, has access to funds, or has authority to make expenditures from funds, to give a surety bond in the form prescribed by [§ 8-19-101](#). The cost of the surety bond shall be paid by the charter school and shall be in an amount determined by the governing body.

§ 49-13-112. Funding; allocation; federal funds

(a) A local board of education shall allocate to the charter school an amount equal to the per student state and local funds received by the LEA and all appropriate allocations under federal law or regulation, including, but not limited to, Title I and ESEA funds. The allocation shall be in accordance with rules and regulations promulgated by the department of education. All funds received by a charter school shall be spent according to the budget submitted or as otherwise revised by the public charter school governing body, subject to the requirements of state and federal law. At the request of the charter school governing body, a local board of education may act as fiscal agent for a public charter school in accordance with the charter agreement and applicable state and federal law.

(b) The department of education shall promulgate rules and regulations that provide for the determination of the allocation of state and local funds as provided in subsection (a). The department shall promulgate the rules and regulations effective for the 2010-2011 school years. Notwithstanding [§ 4-5-209](#), any rules promulgated under this subsection (b) may be promulgated as emergency rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 2. At a minimum, the rules shall provide that:

- (1) Allocations shall be based on one hundred percent (100%) of state and local funds received by the LEA, including current funds allocated for capital outlay purposes, excluding the proceeds of debt obligations and associated debt service;
- (2) Student enrollments used in allocations shall be for the same period used in allocating state funds to the LEA under the basic education program (BEP); and
- (3) Allocations to the charter school may not be reduced by the LEA for administrative, indirect or any other category of cost or charge except as specifically provided in a charter agreement.

(c)(1) Notwithstanding any provisions of chapter 3, part 3 of this title or this section to the contrary, the department of education shall calculate the amount of state funding required under the BEP for capital outlay as a non-classroom component to be received in a fiscal year by an LEA in which one (1) or more charter schools operate. The department shall reserve from the sum for such LEA the funds that constitute the amount due to charter schools operating in the LEA and shall not distribute such reserved amount to the LEA. The department shall distribute from the reserved amount directly to each charter school its total per pupil share as determined by its average daily membership (ADM). The per pupil share of each charter school shall be based on prior year ADM, except that the per pupil share of any charter school in its first year of operation shall be based on the anticipated enrollment in the charter agreement.

(2) Although the BEP does not require LEAs to expend specific amounts for the individual components by which the funds were generated, the per pupil funding required to be paid directly by the department to a charter school under this subsection (c) shall be used solely for charter school facilities. Such per pupil facilities aid may be used for rent for school facilities, construction, renovation of an existing school facility, leasehold improvements, debt service on a school facility or purchase of a building or land; provided, that no such funds shall be expended for purchase of land when the charter school does not have immediate plans to construct a building on the land.

(3) Notwithstanding subdivision (c)(1), the LEA shall include in the local share of funds paid to a charter school the required LEA match for the state funds generated under the BEP for capital outlay as a non-classroom component that are paid under this subsection (c) directly to a charter school as per pupil facilities aid.

(d) In order to comply with the requirements for allocating funds to the public charter school, the local board of education may provide liability or other forms of insurance pursuant to the charter agreement.

(e) A public charter school may also be funded by:

(1)(A) Federal grants;

(B) Grants, gifts, devises or donations from any private sources;

(C) State funds appropriated for the support of the public charter school, if any; and

(D) Any other funds that may be received by the local school district.

(2) Receipt of any such funds shall be reported to the chartering authority. Public charter schools, the local board of education and the state department of education are encouraged to apply for federal funds appropriated specifically for the support of public charter schools.

§ 49-13-113. Enrollment

(a) Participation in a public charter school shall be based on parental choice or the choice of the legal guardian or custodian.

(b)(1) A charter school shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level or building.

(2)(A) If applications exceed the planned capacity of the public charter school, the following preferences shall apply:

(i) Pupils in attendance in the previous school year at any public school that converts to become a public charter school;

(ii) Pupils attending public schools within the LEA in which the public charter school is located, if those pupils would otherwise be included in the area in which the public charter school will focus;

(iii) Children residing within the LEA service area in which the public charter school is located, but who are not enrolled in public schools, if those children would otherwise be included in the area in which the public charter school will focus; and

(iv) Children residing outside the LEA in which the public charter school is located and whose needs would be included in the area in which the public charter school will focus.

(B) If enrollment within a group of preference set out in subdivision (b)(2)(A) exceeds the planned capacity of the school, enrollment within that group shall be determined on the basis of a lottery.

(c) Subject to the requirements of subsections (a) and (b), preference may be afforded to the siblings of a pupil who is already enrolled and to the children of a teacher, sponsor or member of the governing body of the charter school, not to exceed ten percent (10%) of total enrollment or twenty-five (25) students, whichever is less.

(d)(1) Deleted by [2011 Pub.Acts, c. 466, § 13, eff. June 10, 2011](#).

(2) A charter school shall provide to the department of education certification by an independent accounting firm or

by a law firm that each lottery conducted for enrollment purposes complied with the requirements of this section. In lieu of such certification, a charter school may request that the department of education review and approve the lottery process.

(3) The charter school shall comply with the Family Education Rights and Privacy Act, codified in [20 U.S.C. § 1232g](#), with respect to the publication of any list of students' names before, during or after the enrollment and lottery process.

(4) Deleted by [2011 Pub.Acts, c. 466, § 13, eff. June 10, 2011](#).

(5) The state board of education shall promulgate rules and regulations concerning enrollment lotteries to be conducted under this subsection (d). The rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

§ 49-13-114. Transportation

(a) If a public charter school elects to provide transportation for its pupils, the transportation shall be provided by the school or by agreement with the LEA within the district in which the school is located in the same manner it would be provided if the students were enrolled in any other school within the LEA. If a public charter school elects not to provide transportation for its pupils, the school shall not receive the funds that would otherwise have been spent to do so.

(b) For pupils who reside outside the district and who have been approved by the governing board of a charter school to attend a public charter school, the school is not required to provide or pay for transportation.

(c) At the time a pupil enrolls in a public charter school, the school shall provide the child's parent or guardian with information regarding transportation.

(d) Both the school and the LEA in which the school is located shall include in their annual reports what transportation plans are in effect for charter schools.

§ 49-13-115. Conditional approval

If approval is a prerequisite for the sponsor to raise working capital, a chartering authority may grant conditional approval for a charter application. The chartering authority shall grant full approval subject to the sponsor providing information regarding financing commitments from equity investors or debt sources for cash or working capital sufficient to demonstrate that the charter school will have liquid assets sufficiently available to operate the school on an ongoing and sound financial basis. In lieu of cash or similar liquid assets, an applicant may provide a financial bond issued by a company authorized to issue surety bonds in this state. The office of the comptroller shall verify the adequacy of any financial bond provided as assets.

§ 49-13-116. Information provided to public; maintenance of records

(a) The state department of education shall provide information to the public, directly and through the local board of education, on how to form and operate a public charter school. This information shall include a standard application format, which shall include the information specified in [§ 49-13-107](#).

(b) The state department of education shall monitor the status of charter school applications and shall maintain information on the total number of charter school applications, total number of charter school applications granted

by type of school, total number of charter school applications denied and total number of charter school applications appealed and the status or outcome of the appeals.

§ 49-13-117. Leaves of absence for teachers

(a) If a teacher employed by an LEA makes a written request for an extended leave of absence to teach at a public charter school, the LEA may grant the leave. Any extensions are at the discretion of the LEA. The leave shall be governed by chapter 5, part 7 of this title, including, but not limited to, reinstatement, notice of intention to return, seniority, salary and insurance.

(b) The years of service acquired by a teacher while on a leave of absence to teach at a public charter school may, at the discretion of the local board, be used to obtain or determine tenure status.

(c) For salary rating purposes, a teacher shall receive credit for years of service acquired while teaching at a public charter school.

§ 49-13-118. Repealed by 2011 Pub.Acts, c. 378, § 11, eff. June 1, 2011

§ 49-13-119. Group insurance

Teachers, as defined in [§ 8-34-101](#), of a public charter school shall participate in the group insurance plans authorized in title 8, chapter 27, part 3 in the same manner as teachers of the LEA.

§ 49-13-120. Reporting requirements

(a) The governing body of the public charter school shall make at least an annual progress report to the sponsor of the school, the chartering authority and the commissioner of education. The report shall contain at least the following information:

- (1) The progress of the school towards achieving the goals outlined in its charter;
- (2) The same information required in the reports prepared by local boards of education pursuant to state laws, rules and regulations; and
- (3) Financial records of the school, including revenues and expenditures.

(b) The reports made pursuant to subsection (a) shall be public information pursuant to the provisions of [§ 10-7-504\(a\)\(4\)](#). Based on the information provided to the commissioner of education under subsection (a), the commissioner shall prepare and submit an annual report on charter schools to the joint oversight committee on education.

(c) Each charter school shall provide in the report required under subsection (a) a detailed accounting, including the amounts and sources, of funds other than those funds received under [§ 49-13-112\(a\)](#). The funds shall include, but not be limited to, any funds received from sources under [§ 49-13-112\(e\)](#).

§ 49-13-121. Term of charter; renewal

(a) New public charter schools, conversion schools and all renewals of charter agreements shall be for ten-year periods.

(b) No later than October 1 of the year prior to the year in which the charter expires, the governing body of a public charter school shall submit a renewal application to the chartering authority. The chartering authority shall rule by resolution, at a regular or special called meeting, on whether to approve or deny the renewal application. The decision of the chartering authority shall be based on the report and evaluation provided for in [§ 49-13-120](#). If the original charter application was appealable to the state board of education, a decision by the chartering authority to deny renewal may be appealed by the governing body, within ten (10) days of the decision to deny, to the state board of education. If the state board of education directs the LEA to approve the renewal of the charter agreement, the public charter school shall continue to operate for the prescribed period of ten (10) academic years. A decision by the state board of education to deny the renewal of a charter agreement shall be final. No appeal may be taken.

(c) A public charter school renewal application shall contain a report of the school's operations, including students' standardized test scores, financial statements and performance audits of the nine (9) years preceding the date of the renewal application. The department of education shall develop guidelines that govern the charter renewal application process.

(d) An interim review of a charter school shall be conducted by the LEA under guidelines developed by the department of education in the fifth year of a charter school's initial period of operation and also in the fifth year following any renewal of a charter agreement. Such guidelines shall require a charter school to submit to the LEA a report on the progress of the school in achieving the goals, objectives, pupil performance standards, content standards and other terms of the approved charter agreement.

§ 49-13-122. Revocation or renewal of charter

(a) A public charter school agreement may be revoked or denied renewal by the final chartering authority if the chartering authority determines that the school did any of the following:

- (1) Committed a material violation of any of the conditions, standards or procedures set forth in the charter;
- (2) Failed to meet or make adequate yearly progress toward achievement of the state's accountability system for two (2) consecutive years; or
- (3) Failed to meet generally accepted standards of fiscal management.

(b) If the chartering authority revokes or does not renew a charter agreement, the chartering authority shall state its reasons for the revocation or nonrenewal.

(c) A decision not to renew or to revoke a charter agreement may be appealed to the state board of education within ten (10) days of the decision, except for revocations or failures to renew based on the violations specified in subdivision (a)(2). State board appeals shall be handled on the same basis as provided in [§ 49-13-108](#). This section shall apply only to decisions not to renew or to revoke a charter agreement where the LEA is the chartering authority.

(d) Except in the case of fraud, misappropriation of funds, flagrant disregard of the charter agreement or the provisions of this chapter or similar misconduct, or failure to make adequate yearly progress for two (2) consecutive years, a decision to revoke a charter shall become effective at the close of the academic year.

§ 49-13-123. Enrollment of students in terminated charter school

If a charter agreement is not renewed or is terminated in accordance with [§ 49-13-122](#), a pupil who attended the

school, siblings of the pupil, or another pupil who resides in the same place as the pupil may enroll in the resident district or may submit an application to a nonresident district according to [§ 49-6-3105](#) at any time. Applications and notices required by this section shall be processed and approved in a prompt manner.

§ 49-13-124. Charter school powers

(a) The governing body of a public charter school may sue and be sued. The governing body may not levy taxes or issue bonds except in accordance with state law. A public charter school may conduct activities necessary and appropriate to carry out its responsibilities such as:

- (1) Contract for services, except for the management or operation of the charter school by a for-profit entity;
- (2) Buy, sell or lease property;
- (3) Borrow funds as needed; and
- (4) Pledge its assets as security; provided, however, that those assets are not leased or loaned by the state or local government.

(b) The chartering authority may endorse the submission of the school credit bond application to the local taxing authority, if the project is a qualified project under [§ 54E\(c\)\(2\)](#) or [§ 54F\(d\)\(1\) of the Internal Revenue Code of 1986](#), codified in [26 U.S.C. § 54E\(c\)\(2\)](#) and [26 U.S.C. § 54F\(d\)\(1\)](#), respectively, and the Tennessee State School Bond Authority Act, compiled in chapter 3, part 12 of this title, and with respect to [§ 54E\(c\)\(2\)](#), the applicant can demonstrate that the applicant meets the ten percent (10%) matching funds requirement, as prescribed by [§ 54E\(c\)\(2\)](#).

§ 49-13-125. Immunity; insurance

The governing body of a charter school shall be subject to the same limits of liability as local school systems and shall provide insurance in accordance with [§ 49-13-107](#) for any liability exposure.

§ 49-13-126. Rules and regulations; procedures for authorization

(a) The state board of education is authorized to promulgate rules and regulations for the administration of this chapter. Proposed rules and regulations shall be submitted by the state board to the joint oversight committee on education for review and comment.

(b) Notwithstanding any other provision of this chapter to the contrary, the commissioner shall establish rules and procedures for the authorization of charter schools by the achievement school district pursuant to this chapter.

§ 49-13-127. Audits

(a) The comptroller of the treasury is authorized to audit any books and records, including internal school activity and cafeteria funds, of any charter school created under this chapter and by virtue of the statutes of this state when the audit is deemed necessary or appropriate by the comptroller of the treasury. The comptroller of the treasury shall have the full cooperation of officials of the charter school in the performance of the audit or audits.

(b)(1) The governing body of the charter school shall cause an annual audit to be made of the accounts and records, including internal school activity and cafeteria funds, of their school. The audits may be prepared by certified public accountants or by the department of audit.

(2) The audit shall be completed as soon as practical after June 30 of each year and a copy of the audit shall be furnished to the local board of education, the special joint oversight committee on education, the commissioner of education and the comptroller of the treasury.

(c) The comptroller of the treasury, through the department of audit, shall be responsible for ensuring that the audits are prepared in accordance with generally accepted auditing standards and determining if the audits meet minimum audit standards and regulations, which shall be prescribed by the comptroller of the treasury. No audit may be accepted as meeting the requirements of this section until the audit has been approved by the comptroller of the treasury. In the event the governing body fails or refuses to have the audit prepared, then the comptroller of the treasury may appoint a certified public accountant or direct the department of audit to prepare the audit. The cost of the audit shall be paid by the governing body.

§ 49-13-128. Obsolete

§ 49-13-129. Task force; findings report

There is hereby created a task force to study and evaluate this chapter, to address, including, but not limited to, statutory inconsistencies and technical issues, fiscal issues, administrative compliance, identification and communication of charter schools' best practices, the design and method of training for charter schools' board members, facility needs, transportation, food services, communication between LEAs and charter schools' boards, principals and administrative staff, employee benefits and charter school boards' accountability. The task force shall include, at a minimum, two (2) representatives appointed by the superintendent of Memphis City Schools, two (2) charter school representatives appointed by the superintendent of Metropolitan Nashville Public Schools, two (2) representatives appointed by the superintendent of Hamilton County Schools, six (6) representatives appointed by the Tennessee Charter Schools Association, one (1) representative from the department of education and one (1) representative from the state board of education. The comptroller of the treasury shall be responsible for the coordination of the task force, including, but not limited to, facilitating communications among task force members. The comptroller shall report the task force's findings and recommendations, including recommended legislation or rules, to the general assembly by February 2, 2011; provided, however, that a public charter school's board shall issue an interim report of its most recent training to the LEA in which the public charter school is located no later than sixty (60) days after August 1, 2010.

§ 49-13-130. Repealed by 2011 Pub.Acts, c. 466, § 17, eff. June 10, 2011

§ 49-13-131. Charter schools most promising practices; dissemination

The department of education, in collaboration and cooperation with charter schools, shall identify charter school most promising practices and implement a system for dissemination of such practices. The system shall include identification of those schools that could benefit most directly from innovative practices in charter schools. The system of dissemination shall allow LEAs across the state and traditional public schools to learn from charter schools' most promising practices.

§ 49-13-132. Repealed by 2011 Pub.Acts, c. 466, § 18, eff. June 10, 2011

§ 49-13-133. Charter schools; student tracking system; departure rates

The department of education shall develop a student tracking system to be used to track students who leave charter schools. The system shall show when and why the student left the charter school. The system may be modeled on the current tracking system used to determine high school dropout rates. A charter school shall report the data required

by the tracking system to the LEA. The department shall include such data in its annual report on charter schools required under [§ 49-13-120](#).

§ 49-13-134. Non-charter schools; federal funding; comparative evaluations

LEAs in which there exist charter schools or in which charter schools are proposed to be created are strongly encouraged to establish non-charter public schools of innovation using federal funding that is available for such purpose. Such non-charter public schools shall be designed to function as a control group to enable the effectiveness of charter schools to be more adequately assessed through comparative evaluations.

§ 49-13-135. LEA's educational facilities; method of calculating terms and costs; lease; lease-purchase agreement (Unofficial classification editorially supplied by West)

An LEA shall establish a transparent and uniform method of calculating all terms and costs related to any lease, lease-purchase agreement, or other contract or agreement executed between the LEA and a charter school for the use of the LEA's educational facilities. The LEA shall retain and make available for audit, by the department of education, all records and any supporting documentation related to the execution of such a lease or agreement.

§ 49-13-136. Capital outlay funds; LEA property (Unofficial classification editorially supplied by West)

(a) Charter schools may use capital outlay funds for the following purposes:

- (1) Purchase, lease-purchase, or lease of real property;
- (2) Purchase, lease-purchase, or lease of school facilities;
- (3) Construction or renovation of school facilities, including renovation, rehabilitation, or alteration of existing facilities to comply with applicable codes and health and safety standards necessary to use the property or facility, or to make the property or facility useful;
- (4) Purchase, lease-purchase, or lease of any tangible or intangible property, including furniture, computers for a computer lab, science lab equipment, or other equipment if such purchase is necessary to use the property or facility, or to make the property or facility useful; and
- (5) Pay debt service on any transaction authorized under this subsection (a).

(b) A public charter school may contract with the LEA or any third party for the provision of goods and services necessary to use the property or facility or to make the property or facility useful.

(c)(1) No later than October 1, in any LEA in which one (1) or more charter schools operates, the LEA shall catalog each year all underutilized and vacant properties owned or operated by the LEA and all underutilized and vacant properties within any educational facility owned or operated by the LEA. The LEA shall submit a comprehensive listing of all such properties to the department of education and the comptroller. The department shall make an LEA's list available to any charter school operating in the LEA or to any sponsor seeking to establish a public charter school in the LEA.

(2) An LEA having underutilized and vacant properties shall make the underutilized and vacant properties available for use by charter schools operating in the LEA. Any lease agreement executed between a charter school and an LEA shall not reflect any outstanding bonded debt on the underutilized or vacant property, except as agreed upon to

reflect any necessary costs associated with the occupation or remodeling of the facility.

(d) On or before October 11, 2011, the department shall adopt uniform guidelines to be used to determine what constitutes the irregular or intermittent use of property by an LEA. In any LEA in which one (1) or more charter schools operates, the LEA shall use such guidelines to catalog all underutilized and vacant properties owned or operated by the LEA.

(e) Nothing in this section is intended to frustrate an LEA's ability to plan for the use of underutilized or vacant properties owned or operated by the LEA. In any LEA in which one (1) or more charter schools operates, the LEA shall submit each year its plans for the use of underutilized or vacant properties owned or operated by the LEA in its annual report to the department of education and the comptroller.

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